IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO: 1543 of 2005

Between:

M. Muthaiah, S/o. Narsaiah, aged 42 yeasrs,

OCC: Conductor, E.No.251371, R/o. 1-1-504/3/9,

Sri Sai Nagar, Suryapet, Nalgonda District

... PETITIONER

AND

1. The Divisional Manager, APSRTC

Suryapet Division, Suryapet, Nalgonda District.

2. The Depot Manager, APSRTC, Bus Depot,

Suryapet, Nalgonda District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ or direction particularly one in the nature of WRIT OF CERTIORARI quash the impugned Proc.No.E2/1 (181)/88-SRPT dated 05-06-1989 in withholding increment for a period of one year with permanent effect as confirmed by the 1st respondent vide Proc.No: PA/19(31)/03-DVM SRPT, dated 10.0.2003 as illegal, arbitrary, unjust, and in violation of Reg. 12 (2) of APSRTC, C.C. & A Reg.1967 and consequently direct the respondents to restore the deferred increment

along with all consequential benefits in the interest of justice and fair play.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondents: MR.V.T.M.PRASAD

The Court, at the admission stage, made the following:

ORDER:

Alleging that petitioner was absent from his duties from 03-01-1989 to 06-01-1989, a chargesheet was issued to him on 12-01-1989 calling for his explanation. The writ petitioner gave his explanation stating that he was sick during the said period. Without conducting any enquiry, the Disciplinary Authority imposed a penalty of deferment of one annual increment with permanent effect by its proceedings dated 05-06-1989, which was confirmed in appeal by the first respondent dated 10-02-2003. Questioning the same, the present writ petition is filed.

2. Learned counsel appearing for the writ petitioner contended that imposing a major penalty without conducting any enquiry is illegal and since the incident in question has taken place long back, instead of remitting the matter to the Disciplinary Authority, he prays to restore the deferred increment.

3. For being absent for his duties, a chargesheet was issued to him and an explanation was called for. Without considering the explanation offered by the petitioner and without conducting any enquiry, a penalty of deferment of one annual increment with permanent effect was imposed on him. There cannot be any dispute that imposing the penalty of deferment of one annual increment with permanent effect is a major penalty. But such a major penalty cannot be imposed without conducting any departmental enquiry. Though it is matter to be remitted back to the Disciplinary Authority for appropriate decision, as the incident in question took place long back, therefore, considering the facts and circumstances of the case, minor penalty can be imposed on the petitioner.

In the result, the writ petition is disposed of modifying the penalty passed by the

Disciplinary Authority to that of deferment of one annual increment without cumulative effect. In the circumstances, no costs.

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K.C. BHANU, J

February 3, 2005

MRR

Copy to:

1. The Divisional Manager, APSRTC

Suryapet Division, Suryapet, Nalgonda District.

2. The Depot Manager, APSRTC, Bus Depot,

Suryapet, Nalgonda District.

3. Two C.D. Copies.